IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 25078 of 2005(I)

PETITIONER:

C.M.ABDUL KHADER, C.M.A. RICE MILL,
CHERAMADU, ERIMAYOOR, ALATHUR P.O.
PALAKKAD DISTRICT.

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SRI.BALAKRISHNAN GOPINATH

RESPONDENTS:
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1. THE SALES TAX OFFICER, III CIRCLE,
AGRICULTURE INCOME TAX AND SALES TAX DEPARTMENT,
PALAKKAD.

2. THE DEPUTY TAHSILDAR, (REVENUE RECOVERY)
ALATHUR, PALAKKAD DISTRICT.

3. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, TAXES AND REVENUE
DEPARTMENT, SECRETARIATE, THIRVANANTHAPURAM.

BY GOVERNMENT PLEADER – ADV. SHRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 25078/2005

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ASSESSMENT ORDER DATED 29/3/2004 ISSUED BY THE 1ST RESPONDENT.

P2 : COPY OF THE RECEIPT NO. 44976 FOR Rs. 1,850/- REMITTED BY THE PETITIONER TO THE 1ST RESPONDENT OFFICE DATED 29/03/2004.

P3 : COPY OF THE DEMAND NOTICE ISSUED UNDER SECTION 34 TO THE PETITIONER BY THE 2ND RESPONDENT DATED 21/3/2005.

P4 : COPY OF THE DEMAND NOTICE ISSUED UNDER SEC. 7 TO THE PETITIONER BY THE 2ND RESPONDENT DATED 21/3/05.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 25078 of 2005 I

Dated, this the 16th day of March, 2007

J U D G M E N T

Even though petitioner has produced Ext.P1 and stated that there is no balance sales tax due for the year 1999-2000, learned Government Pleader pointed out that assessment was revised under Sec. 19(1) and petitioner was issued revised order based on which demand is raised. It is obvious from Ext.P1 that assessment is defective because exemption on purchase turnover of paddy under Sec. 5A was wrongly granted to the petitioner. In the circumstance, writ petition is devoid of any merit and is dismissed. It is for the petitioner to collect revised order from the Office of 1st respondent, if petitioner has not got it, and file appeal. Since the demand is prima facie tenable, petitioner is liable to make payment and if petitioner succeeds in appeal, petitioner can claim refund with interest.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg